



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

JUL 28 2016

Mr. William F. Durham, Director
West Virginia Department of Environmental Protection
Division of Air Quality
601 57th Street SE
Charleston, West Virginia 25304

Dear Mr. Durham:

Thank you for your June 29, 2016 letter requesting comment on the following seven West Virginia Department of Environmental Protection proposed air quality rules: 45 C.S.R. 1, 45 C.S.R. 8, 45 C.S.R. 13, 45 C.S.R. 14, 45C.S.R. 16, 45 C.S.R. 25, and 45 C.S.R. 34.

The U.S. Environmental Protection Agency's comments are enclosed.

If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Irene Shandruk, for 45 C.S.R. 1, at 215-814-2166, or shandruk.irene@epa.gov or Ms. Amy Johansen, for the remaining rules, at 215-814-2156, or johansen.amy@epa.gov.

Sincerely,

A handwritten signature in blue ink, which appears to read "D. Arnold", is positioned above the printed name of the sender.

David L. Arnold,
Acting Division Director

Enclosure



Enclosure

EPA's Comments on West Virginia's Proposed Air Quality Rules for 2017 Legislative Session

45 C.S.R. 1 - Alternative Emission Limitations during Startup, Shutdown, and Maintenance Operations

1. Please explain provision 45-1-3.3. The wording is vague and it is unclear why only RACT is mentioned. Perhaps it should say that the alternative emission limitation (AEL) shall otherwise meet applicable West Virginia and Clean Air Act requirements.
2. Please clarify the meaning and intent of provision 45-1-7. It is unclear how the AEL could be more stringent than an otherwise applicable limitation. If the AEL is less stringent, based on this provision, the AEL would not apply to sources during startup/shutdown/malfunction when the sources cannot meet the otherwise applicable emission limitations.
3. To the extent that West Virginia intends to establish AELs for periods of startup/shutdown/malfunction, such limitations must be submitted to EPA for approval into West Virginia's state implementation plan (SIP) for SIP compliance purposes. That is, if the AEL is done via permit or enforcement order, the permit or order must be approved by EPA into West Virginia's SIP to ensure that the limitations are enforceable by EPA.
4. Please define "zero process weight rate" to make the definition of "maintenance operation" clearer.

45 C.S.R. 13 – Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, Permission to Commence Construction, and Procedures for Evaluation

1. Please explain why 45-13-5.8 is being removed. By removing this provision there appears to be no limit on the timeframe in which the Secretary shall complete review of any application for an existing stationary source operating permit.
2. It should be noted that on December 29, 2015 (80 FR 81234), EPA proposed "Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs," which will remove mandatory requirements to provide public notice of a draft air permit, as well as certain other program actions, through publication in a newspaper and would instead allow for electronic noticing (e-notice) of these actions. EPA suggests West Virginia

review that proposed rule as well as the final rule, once published, noting that the proposal is subject to change upon going final.

3. West Virginia is making changes to Public Review Procedures in 45-13-8 and is to be commended for moving to electronic public noticing; however, please explain why West Virginia is removing requirements to public notice applications for operating permits in provision 45-13-8.3.

45 C.S.R. 14 – Permits for Construction and Major Modification of Major Stationary Sources for the Prevention of Significant Deterioration of Air Quality

1. Please explain the changes made to provision 45-14-2.45. It is unclear why “under the CAA” is being removed.
2. Please explain your changes to the definition of “PAL permit” in provision 45-14-2.54.
3. The edits made to 45-14-11.5 are confusing and unclear. It appears the same thing is being said twice. Please clarify.
4. In the provisions under 45-14-17 for Public Review Procedures, it appears West Virginia will continue to use legal advertisement in a newspaper of general circulation, but are moving to electronic notice under 45-13. Once EPA finalizes “Revisions to the Public Notice Provisions in Clean Air Act Permitting Programs,” EPA would recommend one consistent public noticing method, unless there are specific instances where the public would be better served using a CAA approved alternative (i.e., newspaper).